IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Bail Appl..No. 4535 of 2007()

CRIME NO. 235/07 OF VATAKARA POLICE STATION

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PETITIONER/ACCUSED:

AJESH K.T., S/O. LATE K.T.ASHOKAN,
AGED 33 YEARS, AJESH VILLA, PUTHUPPANAM P.O.,
VADAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.N.M.JAMES

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTING S.H.O., VADAKARA POLICE STATION,
KOZHIKODE DISTRICT.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/07/2007, A/W. BA 4536 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.Nos. 4535 & 4536 of 2007

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Dated this the 27th day of July, 2007

O R D E R

These applications filed by the common petitioner are for anticipatory bail. The petitioner faces allegations in two different crimes, inter alia, under Sections 420 and 468 I.P.C. The crux of the allegations is that two passengers went to the Karipur Airport for travelling to their destination abroad. Their passports were verified. There was an 'ECNR' endorsement on their passports. The Duty Officer entertained doubts about the genuineness of the endorsement. He interrogated the passengers. The passengers allegedly stated to him that the endorsement was obtained by the petitioner, who runs a travel agency, after receiving a huge amount of Rs.6,000/- They had not passed the S.S.L.C. examination, they allegedly confessed. The Officer therefore lodged a complaint before the local police, i.e. Kondotty police. Accepting the allegations of the holders of the passports, a complaint was filed by the Duty Officer against the petitioner alone. The case has been initially registered at Kondotty Police Station and transferred subsequently to the Vadakara Police

Station, within the jurisdiction of which the petitioner carries on business. Investigation is in progress. The petitioner apprehends imminent arrest in these two crimes.

2. The learned counsel for the petitioner submits that, on the face of it, the allegations are a little suspicious. How and why did the duty officer voluntarily and willingly swallow the version of the passport holders that they are not responsible for the endorsement and the petitioner alone is responsible for the endorsement. The petitioner is a bonafide travel agent. He does work on behalf of the clients who approach him. The petitioner produces all necessary documents furnished to him by the clients to show that no emigration clearance is required. The petitioner does only process it. He is not in any way responsible for the alleged non-genuineness of the endorsements on the passports. In these circumstances it is prayed that anticipatory bail may be granted to the petitioner.

3. The learned Prosecutor opposes the application. He submits that interrogation of the petitioner will be essential for a proper resolution of the crime.

4. I have considered all the relevant inputs. The learned Prosecutor has placed the case diary before me for my perusal. I am persuaded to agree that this is a fit case where the petitioner can be granted anticipatory bail.

As to whether the passport holders or the petitioner had any responsibility for the alleged crime can be ascertained only after thorough investigation. I am satisfied that subject to appropriate conditions anticipatory bail can be granted to the petitioner.

5. These applications are allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 3.8.2007 at 11 a.m. The learned Magistrate shall release him on regular bail on condition that he executes a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 5 p.m. on 4.8.07, 6.8.07 and 7.8.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of three months. Subsequently he shall appear before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 3.8.07 and the

police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(b) If the petitioner were arrested prior to his surrender on 3.8.2006 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.50,000/- without any surety undertaking to appear before the learned Magistrate on 3.8.2007.

(R. BASANT)
Judge

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